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Message Text

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C O N F I D E N T I A L SECTION 1 OF 2 GENEVA 6328

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E.O. 11652: GDS
TAGS: PARM, CCD
SUBJECT: CCD - NWFZ STUDY

REF: GENEVA 6321

SUMMARY: THIS MESSAGE REVIEWS, CHAPTER BY CHAPTER, TREATMENT IN NWFZ STUDY OF SELECTED ISSUES LIKELY TO BE OF PARTICULAR INTEREST TO WASHINGTON. AD REFERENDUM TEXTS OF INTRODUCTION AND CHAPTERS THREE THROUGH EIGHT BEING TRANSMITTED SEPARATELY. END SUMMARY.

1. GENERAL COMMENT. GENEVA 6321 CONVEYS US DEL'S REQUEST THAT DEPARTMENT PROVIDE INSTRUCTIONS AS SOON AS POSSIBLE ON MINIMUM CHANGES NEEDED FOR US APPROVAL OF STUDY. US DEL WOULD ASK DEPARTMENT, IN PROVIDING INSTRUCTIONS, TO BEAR FOLLOWING CONSIDERATIONS IN MIND: (A) IT WILL NOT BE FEASIBLE TO SEEK IMPROVE-MENTS IN PASSAGES THAT ARE NOW CONSENSUS FORMULATIONS. IF THERE ARE SERIOUS PROBLEMS IN SUCH PASSAGES, IT
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SEEMS ADVISABLE EITHER SIMPLY TO INSIST ON DOWN-

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GRADING TO A "MOST EXPERTS" FORMULATION OR TO INSIST ON A "MOST EXPERTS" LEAD-IN TO PASSAGE IN QUESTION AS WELL AS ADDITION OF US SENTENCE INTRODUCED BY "OTHER EXPERTS" OR, IF WE ARE ALONE ON ISSUE, "A VIEW WAS EXPRESSED." (B) ATTEMPS TO REFINE FURTHER THE SPLIT OPINION FORMULATIONS WITH WHICH WE ARE ALREADY ASSOCIATED COULD LEAD TO STRONG BALANCING STATEMENTS BY OTHERS OR TO BREAK-UP OF GROUP THAT HAD PREVIOUSLY SUPPORTED FORMULATION. FOR EXAMPLE, WHILE WE WERE ABLE TO INSERT STATEMENT ON INNOCENT PASSAGE THROUGH TERRITORIAL SEA IN PARA 9 OF CHAPTER 3, IT WAS NOT POSSIBLE TO ADD THIS TO PREVIOUS "MOST EXPERTS" LANGUAGE, WHICH SOVIETS ALSO SUPPORTED, ON HIGH SEAS ETC. OUR STATEMENT APPEARS AS "VIEW EXPRESSED," I.E., BY ONE EXPERT ONLY, WHILE SOVIETS HAVE INSERTED TOUGH REJOINDER ON TRANSIT AND PORT CALLS. (SEE TEXT TRANSMITTED SEPTEL.) ADVANTAGES OF FURTHER PRECISION ON US VIEWS MUST THEREFORE BE WEIGHED AGAINST INEVITABLE "BALANCING" STATEMENTS THAT OTHERS WILL INSIST ON ADDING. FOLLOWING ARE CHAPTER-BY-CHAPTER COMMENTS ON SELECTED ISSUES:

2. INTRODUCTION: ALL OBJECTIONALBE MATERIAL FROM EARLIER DRAFT HAS BEEN DELETED. INTRODUCTION NOW CONSISTS OF UNGA RESOLUTION CALLING FOR NWFZ STUDY PLUS STATEMENT ON ORGANIZATION OF EXPERTS' GROUP AND PROGRAM OF WORK.

3. CHAPTER II (HISTORICAL BACKGROUND). ALTHOUGH SOMEWHAT SHORTER THAN VERSION POUCHED TO ACDA IN JULY, TEXT IS STILL APPROXIMATELY 30 PAGES LONG. BECAUSE CHAPTER IS NOT CONTROVERSIAL, WE DO NOT BELIEVE IT IS NECESSARY TO TRANSMIT TEXT FOR REVIEW. ONLY ISSUE WE FEEL SHOULD BE BROUGHT TO DEPARTMENT'S ATTENTION IS INSERTION BY MEXICAN EXPERT OF FOLLOWING NEW PARAGRAPH AFTER PASSAGE CONTAINING US VIEWS ON APPLICATION OF PROTOCOL I OF TREATY OF TLATELOLCO (PARA 25 IN SECOND DRAFT POUCHED ACDA): "THE PANAMANIAN GOVERNMENT, IN RATIFYING THE LANFZ IN JUNE 1971, HAS DECLARED THAT THE TREATY 'APPLIES TO THE CONFIDENTIAL

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TOTALITY OF THE TERRITORY OF PANAMA, INCLUDING THE SO-CALLED 'CANAL ZONE.' THE GENERAL CONFERENCE AND THE COUNCIL OF OPANAL ACCORDINGLY HAVE APPROACHED THE QUESTION OF THE PANAMA CANAL ZONE, NOT WITH RESPECT TO ADDITIONAL PROTOCOL I, BUT IN THE LIGHT OF ADDITIONAL PROTOCOL II." WE DO NOT BELIEVE FURTHER "BALANCING" STATEMENT BY US IS NECESSARY. IF, HOWEVER, USG HAS MADE STATEMENT ON RECORD IN RESPONSE

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TO THIS ACTION BY OPANAL, IT CAN BE REFLECTED IN TEXT
IF DEPT SO DESIRES AND IF STATEMENT IS SUPPLIED
PROMPTLY.

4. CHAPTER III (CONCEPT OF NUCLEAR-WEAPON-FREE ZONES). VERSION SENT SEPTEL DIFFERS SLIGHTLY FROM VERSION SNT GENEVA 6242. MAIN DIFFERENCES RESULT FROM OUR CHAGES IN PARA SIX (ADDING "AND NOTED THAT SUCH UNILATERAL DECLARATIONS COULD NOT IMPOSE OBLIGATIONS ON OTHER STATES") AND SUB-PARA 13 OF PARA 9 (OUR INSERT ON INNOCENT PASSAGE, DISCUSSED ABOVE, AND SOVIET REJOINDER).

(A) QUESTION OF "TOTAL ABSENCE" OF NUCLEAR WEAPONS IS RAISED IN PARA ONE OF CHAPTER THREE. IN THAT CONNECTION AND ELSEWHERE THROUGHOUT THE STUDY SEVERAL EXPERTS HAVE CITED ARTICLE VII OF NPT ("NOTHING IN THIS TREATY AFFECTS THE RIGHT OF ANY GROUP OF STATES TO CONCLUDE REGIONAL TREATIES IN ORDER TO ASSURE THE TOTAL ABSENCE OF NUCLEAR WEAPONS IN THEIR RESPECTIVE TERRITORIES") TO SUPPORT VIEW THAT BASIC PRINCIPLE FOR ESTABLISHMENT OF NWFZS SHOULD BE TOTAL OR COMPLETE ABSENCE OF NUCLEAR WEAPONS (I.E., INCLUDING PROHIBITION ON TRANSIT). WE HAVE TAKEN POSITION THAT ARTICLE VII SHOULD NOT BE VIEWED AS SETTING FORTH SPECIFIC GUIDE-LINE FOR CREATION OF NWFZ'S, BUT RATHER AS INDICATING

THAT NOTHING IN NPT IS INCONSISTENT WITH ATTEMPTS BY NNWS TO PURSUE NWFZ'S WITH OBJECTIVE OF ASSURING TOTAL ABSENCE OF NUCLEAR WEAPONS. WE HAVE THEREFORE BEEN UNWILLING TO JOIN CONSENSUS FORMULATIONS USING TERMS "TOTAL" OR "COMPLETE" ABSENCE AND HAVE ALSO INSERTED IN SEVERAL PLACES THROUGHOUT REPORT THAT ZONE
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ARRANGEMENT SHOULD NOT AFFECT TRANSIT PRIVILEGES. WE HAVE NO GROUNDS, HOWEVER, FOR OBJECTING TO THESE TERMS WHEN USED IN PASSAGES SUPPORTED BY "OTHER EXPERTS" (E.G., PARA 3, CHAPTER 3) AND DO NOT BELIEVE IT IS NECESSARY TO RESIST USE OF "TOTAL ABSENCE" FORMULATION IN DESCRIBING MOTIVATIONS OF OTHER STATES (PARA ONE, CHAPTER 3). IN CONSENSUS FORMULATIONS, ON OTHER HAND, (E.G., PARA 9, CHAPTER 3), WE HAVE INSISTED ON SUCH TERMS AS "EFFECTIVELY FREE," WHICH WE BELIEVE ADEQUATELY COVERS OUR TRANSIT POSITION.

(B) QUESTION OF NON-USE ASSURANCES FIRST APPEARS IN STUDY IN PARA FOUR OF CHAPTER 3, WHERE "MOST EXPERTS" ASSERT THAT NUCLEAR WEAPON STATES SHOULD PROVIDE SUCH ASSURANCES TO ZONAL STATES. THIS ASSERTION IS BALANCED

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BY THE VIEW, WHICH HAS BEEN INSERTED IN A VARIETY OF FORMULATIONS THROUGHOUT THE STUDY, THAT, WHILE ASSURANCES COULD INCREASE EFFECTIVENESS OF A NWFZ, THEIR PROVISION SHOULD BE CONSIDERED ON CASE-BY-CASE BASIS TO DETERMINE WHETHER THEY WOULD HAVE A FAVORABLE IMPACT ON SECURITY OF REGION. WE BELIEVE THIS FORMULATION IS CONSISTENT WITH US POSITION THAT, IN SOME SITUATIONS, PROVISIONS OF NON-USE ASSURANCE WOULD UNDERMINE DETERRENCE AND STABILITY AS WELL AS WITH US JUDGMENT IN ADHERING TO PROTOCOL II OF TLATELOLCO TREATY THAT PROVISION OF SUCH AN ASSURANCE IN LATIN AMERICAN REGION WOULD NOT HAVE ADVERSE IMPACT. MOREOVER, FROM DISCUSSIONS IN EXPERTS' GROUP, IT SEEMS NECESSARY TO CONCEDE THAT ASSURANCES "COULD" CONTRIBUTE TO EFFECTIVENESS OF NWFZ'S (AS WE DID, IN EFFECT, BY ADHERING TO PROTOCOL II) IN ORDER TO AVOID ISOLATION ON ISSUE.

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(C) WE HAVE RESISTED DESIRE OF SEVERAL NON-ALIGNED EXPERTS TO ASSERT INALIENABLE RIGHT TO ALL BENEFITS OF NUCLEAR ENERGY, AND HAVE INSISTED ON

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"FULLEST POSSIBLE ACCESS" TO THESE BENEFITS IN A MANNER CONSISTENT WITH THE PROVISIONS OF THE ZONE TREATY (WHICH WE ASSERT SHOULD PROHIBIT INDIGENOUS PNE DEVELOPMENT). ALTHOUGH THIS ISSUE IS DISCUSSED MOST FULLY IN CHAPTER VII, FORMULATION IN PARA 9, CHAPTER 3 REFERS TO "INTERNATIONAL COOPERATION ON ALL PEACEFUL USES OF NUCLEAR ENERGY." IN OUR VIEW, THIS PASSAGE DEALS WITH SUCH FORMS OF INTERNATIONAL COOPERATION AS PNE SERVICES CONSISTENT WITH NPT ARTICLE V AND MULTINATIONAL NUCLEAR CENTERS.

(D) WE DO NOT BELIEVE UNFOCUSED AND NON-COMMITTAL TREATMENT OF RELATIONSHIP BETWEEN SECURITY ARRANGEMENTS AND NWFZ'S IN PARAS 10-12 SHOULD GIVE US ANY PROBLEMS. CONCLUSION DRAWN IS THAT, WHILE SECURITY ARRANGEMENTS COULD INVOLVE ACTIVITIES THAT ARE INCONSISTENT WITH NWFZ STATUS, THIS IS NOT NECESSARILY CONFIDENTIAL

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THE CASE. CONCLUSION IS THEREFORE NOT AT VARIANCE WITH OUR VIEW THAT ANY NWFZ ARRANGEMENT THAT DISRUPTED EXISTING SECURITY ARRANGEMENTS TO DETRIMENT OF REGIONAL AND INTERNATIONAL SECURITY WOULD BE UNACCEPTABLE. US ALLIES PARTICIPATING IN STUDY ARE NOT TROUBLED BY THIS SECTION.

(E) WE PLAN TO CHANGE "INTERNATIONAL SHIPPING" TO "INTERNATIONAL NAVIGATION" WHEREVER IT APPEARS IN STUDY.

5. CHAPTER IV (RESPONSIBILITIES OF STATES WITHIN THE ZONE AND OTHER STATES)

(A) QUESTION OF EXTENDING APPLICATION OF NWFZ PROHIBITIONS TO AREAS OUTSIDE NATIONAL JURISDICTION (E.G., INTERNATIONAL WATERS AND AIRSPACE) IS TREATED IN SEVERAL PARAGRAPHS OF CHAPTER (PARAS 7, 8, 14, 21, ETC.). WHEREVER THIS POSSIBILITY IS RAISED, WE AND OTHER LIKE-MINDED DELS HAVE INSERTED STATEMENT THAT NWFZ PROHIBITIONS COULD NOT BE APPLIED TO THESE AREAS WITHOUT CONSENT OF EXTRA-ZONAL STATES AND, IN SOME PLACES, HAVE ADDED THAT, ASIDE FROM THIS LEGAL CONSIDERATION, THERE ARE POLITICAL AND SECURITY PROBLEMS THAT COULD MAKE SUCH APPLICATION OBJECTIONALBE.

(B) QUESTION OF TRANSIT THROUGH TERRITORIAL SEA OR AIRSPACE IS TREATED IN PARA 13, AS WELL AS IN SEVERAL OTHER SECTIONS OF STUDY. WHILE SOME EXPERTS ARGUE THAT TRANSIT PROHIBITIONS ARE ESSENTIAL,

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OTHERS STATE THAT NWFZ SHOULD NOT AFFECT EXISTING RIGHTS OF STATES TO GRANT OR DENY TRANSIT PRIVILEGES (I.E., US UNDERSTANDING RE PROTOCOL II OF TLATELOLCO TREATY).

(C) PARA 17 CONTAINS TREATMENT OF NON-USE ISSUE SIMILAR TO THAT DESCRIBED PARA 4(B) ABOVE.

6. CHAPTER V (VERFICATION AND CONTROL). PARA SEVEN REFERS TO VERIFICATION ON THE HIGH SEAS.
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POINT IS MADE BY "SOME EXPERTS" THAT NOT ONLY WOULD INCLUSION OF HIGH SEAS AREAS IN NWFZ RAISE "PERHAPS INSUPERABLE" SECURITY, POLITICAL, AND LEGAL PROBLEMS, IT WOULD ALSO BE EXTREMELY DIFFICULT TO VERIFY.

7. CHAPTER VI (NWFZ'S AND INTERNATIONAL LAW). MOST SIGNIFICANT ELEMENTS OF THIS CHAPTER ARE ADDITIONAL FORMULATIONS ON NON-USE QUESTION (PARAS 6 AND 7) AND ON APPLICATION OF ZONE PROHIBITIONS OUTSIDE NATIONAL JURISDICTION (PARA 12).

8. CHAPTER VII (PEACEFUL USES OF NUCLEAR ENERGY).

(A) PARA ONE, BY POINTING OUT THAT RIGHT TO USE NUCLEAR ENERGY FOR PEACEFUL PURPOSES MUST BE CONSISTENT WITH AIMS AND PROVISIONS OF ZONE TREATY, SEEMS ANALOGOUS TO TREATMENT OF "INALIENABLE RIGHT" ISSUE IN NPT ARTICLE IV(1). WE AND MOST OTHER PARTICIPANTS HAVE ARGUED ELSE WHERE IN STUDY THAT NEFZ SHOULD RULE OUT INDIGENOUS PNE DEVELOPMENT.

(B) PARA TEN MAKES CLEAR THAT MOST EXPERTS BELIEVE POTENTIAL BENEFITS OF PNE SHOULD BE MADE AVAILABLE TO NWFZ PARTIES (PARA 9) ONLY IF ZONE ARRANGEMENT PRECLUDES INDIGENOUS PNE DEVELOPMENT.

9. CHAPTER VIII (CONCLUSIONS). IN LIGHT OF SHARP DISAGREEMENTS ON FUNDAMENTAL NWFZ ISSUES, EXPERTS ABANDONED EFFORT TO REACH SUBSTANTIVE CONCLUSIONS. CURRENT VERSION WAS LIFTED FROM PREVIOUS DRAFT OF INTRODUCTION. DALE

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